

EXHIBIT A

2/26/2016 11:24:42 AM
16CV061351
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IN THE CIRCUIT COURT OF THE STATE OF OREGON
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FOR THE COUNTY OF MULTNOMAH
67 MELISSA COURY, Personal Representative of
the Estate of RAYMOND COURY,
8Plaintiff,
9vs.
10AIR & LIQUID SYSTEMS CORPORATION, a
Pennsylvania corporation, sued individually and as
successor by merger to BUFFALO PUMPS, INC.;
CBS CORPORATION f/k/a VIACOM, INC., a
Delaware corporation, sued as successor by merger
with CBS Corporation f/k/a Westinghouse Electric
Corporation, successor-in-interest to BF
STURTEVANT; CH MURPHY/CLARK-ULLMAN,
INC., an Oregon corporation; FOSTER WHEELER,
LLC, a New York corporation; FRASER'S BOILER
SERVICE, INC., a Washington corporation,
individually and as successor-in-interest to Fraser
Boiler Works; GENERAL ELECTRIC COMPANY,
a New York corporation; INGERSOLL-RAND
COMPANY, a New Jersey corporation; MAR-
DUSTRIAL SALES, INC. an Oregon corporation;
WARREN PUMPS, LLC, successor in interest to
Warren Pumps, Inc., Quimby Pumps Co., and Warren
Steam Pumps Co.; GOULDS PUMPS (IPG), INC., a
Delaware corporation; METROPOLITAN LIFE
INSURANCE COMPANY, a New York corporation;
3M COMPANY (also known as MINNESOTA
MINING AND MANUFACTURING COMPANY), a
foreign corporation,
2425 Defendants.
26

Case No.

**COMPLAINT- Wrongful Death
(Civil Action for Strict Liability and
Negligence)****DEMAND FOR JURY TRIAL****NOT SUBJECT TO MANDATORY
ARBITRATION****Prayer Range: \$1,000,000-\$10,000,000
Filing Fee Established By
ORS 21.160(1)(d)**

1
2
3 Plaintiff alleges at all material times:

4 **FIRST CLAIM FOR RELIEF**

5 **(Strict Liability against Manufacturer, Supplier, and Distributor Defendants)**

6 1.

7 At all times relevant to this action, Defendants conducted regular, sustained and not
8 isolated business activity in the State of Oregon.

9 2.

10 Plaintiff, Melissa Coury, is the duly appointed Personal Representative of the Estate of
11 Raymond Coury ("Decedent"), and a resident of the State of Oregon.

12 3.

13 Decedent's mesothelioma was diagnosed on March 21, 2014. This complaint is filed
14 within the applicable statute of limitations.

15 4.

16 Decedent worked as a laborer, painter, painter supervisor, and supervisor in the Portland
17 Oregon shipyards beginning in 1961. During this employment, Decedent was exposed to
18 airborne asbestos fibers either through handling asbestos and asbestos containing materials in the
19 performance of his work, being exposed to airborne asbestos fibers created by workers who
20 handled, installed or fabricated asbestos containing materials, or who were exposed to those
21 materials and then exposed Decedent to those fibers. Decedent incorporates all product
22 identification set forth in Exhibit "A." Decedent further incorporates any asbestos exposure at
23 any location reflected in Decedent's Social Security records, public documents, union records,
24 testimony of co-workers, testimony of the Decedent and/or any other information in the
25 possession of the Defendants reflecting Decedent's exposure to airborne asbestos fibers for
26 which any Defendant is responsible. Defendants are in the possession of information regarding

1 the asbestos containing products and materials which they fabricated, sold, distributed or whose
2 specifications required asbestos containing materials for replacement or modification.
3 Defendants have public and private documents, acquired through litigation and other sources,
4 and have information regarding the materials which they manufactured, sold, distributed, or
5 fabricated which contained asbestos fibers which could become airborne. Defendants have
6 access to documents which reflect the nature and extent of Decedent's exposure to products
7 manufactured, fabricated, or distributed by Defendants. Decedent's exposure to Defendants'
8 products includes but is not limited to the products present at the locations identified in Exhibit
9 "A" and includes but is not limited to those products which Defendants, through extensive
10 discovery and litigation, as well as their own records and documents, are locations where the
11 Decedent worked and was exposed to Defendants' asbestos fibers. Decedent is continuing
12 discovery and reserves the right to revise Exhibit "A."

13 5.

14 At all material times:

15 a) Air & Liquid Systems Corporation, sued individually and as successor by merger to
16 BUFFALO PUMPS, INC. was and is a Pennsylvania corporation not registered to do
17 business in the state of Oregon, engaged in the manufacturing, distribution and sale of
18 asbestos-containing Buffalo Pumps equipment utilizing asbestos-containing products.
19 This equipment included pumps.

20 b) CBS Corporation f/k/a Viacom, Inc., sued as successor by merger with CBS
21 Corporation f/k/a Westinghouse Electric Corporation, was and is a Delaware
22 corporation not registered to do business in the state of Oregon, engaged in the
23 manufacture, sale and/or distribution of equipment utilizing asbestos-containing
24 products. This equipment included Westinghouse turbines, generators, and pumps.
25 This Defendant is being sued as a Manufacturer, Supplier, and Distributor defendant.

- 1 c) CH Murphy/Clark-Ullman, Inc., was and is an Oregon corporation registered to do
- 2 business in the state of Oregon, engaged in the manufacture, sale and/or distribution
- 3 of asbestos-containing products.
- 4 d) General Electric Company was and is a New York corporation registered to do
- 5 business in the state of Oregon, engaged in the manufacture, sale, and/or distribution
- 6 of equipment utilizing asbestos-containing products. This equipment included
- 7 turbines and generators.
- 8 e) Foster Wheeler LLC was and is a New York corporation registered to do business in
- 9 the state of Oregon engaged in the manufacture, distribution, and/or sale of asbestos-
- 10 containing products, including, but not limited to, insulation, engines, gaskets,
- 11 packing, turbines, and related component materials;
- 12 f) Fraser's Boiler Service, Inc., was and is a Washington corporation, individually and
- 13 as successor-in-interest to Fraser Boiler Works, engaged in the sale and/or
- 14 distribution of asbestos-containing refractory products used for the service, repair,
- 15 and/or installation of boilers and/or furnaces;
- 16 g) Ingersoll-Rand Company was and is a New Jersey corporation registered to do
- 17 business in the state of Oregon, engaged in the manufacture, sale, and/or distribution
- 18 of equipment utilizing asbestos-containing products. This equipment included pumps
- 19 and compressors.
- 20 h) Mar-Dustrial Sales, Inc. was and is an Oregon corporation registered to do business in
- 21 the state of Oregon, engaged in the manufacture, sale, and/or distribution of asbestos-
- 22 containing products. These products included gaskets.
- 23 i) Warren Pumps, LLC, successor in interest to Warren Pumps, Inc., Quimby Pumps
- 24 Co., and Warren Steam Pumps Co., is a Massachusetts LLC and was engaged in
- 25 manufacture, distribution, and sales of asbestos-containing machinery.

- j) Goulds Pumps (IPG), Inc., was and is a Delaware corporation and was engaged in the manufacturing, distribution and sale of asbestos-containing pumps;
- k) Metropolitan Life Insurance Company was a New York corporation engaged in the business of providing a variety of insurance products, including life insurance, casualty and liability insurance, and workers' compensation insurance to a variety of customers, including corporations engaged in the manufacture, distribution, and sale of asbestos and asbestos-containing products.

6.

9 At all material times, which includes not only the period of plaintiff's work exposure, but
10 also includes a period beginning in approximately 1929 and continuing thereafter, the
11 Metropolitan Life Insurance Company, at the request of, and as part of its business service to,
12 one or more of its insurance customers which engaged in asbestos-related business, conducted,
13 either directly through its own employees or indirectly through commissioned studies and
14 medical research, medical investigations, medical studies, and collection of medical and
15 epidemiological data, concerning the disease producing capabilities of asbestos and asbestos-
16 containing materials. Metropolitan Life provided the results of such investigation and studies,
17 either by direct transmittal to companies engaged in asbestos related business or indirectly by
18 dissemination of the information and medical knowledge that they had accumulated throughout
19 asbestos-related industries. This transmittal and dissemination of information went to a variety
20 of industrial companies and individuals, including the Defendants named herein. Medical
21 investigation studies and information developed from the activities of Metropolitan Life
22 Insurance Company, above described, included substantial evidence of the disease producing
23 capability of asbestos and asbestos-related products. After collection and dissemination of the
24 medical information and data, as described above, which collection and dissemination occurred
25 in the 1930s and 1940s, the Metropolitan Life Insurance Company thereafter engaged in a

1 continuous and consistent course of conduct suppressing, minimizing, understating and denying
2 the evidence of disease causing properties of asbestos and asbestos-related material.

3 7.

4 Decedent, Raymond Coury, was exposed to airborne asbestos fibers beginning in 1961 by
5 directly working with asbestos-containing materials and by working in the vicinity of other
6 workers utilizing these products. At all material times, Decedent was exposed to airborne
7 asbestos fibers either through utilizing asbestos and asbestos-containing materials in the
8 performance of his work, or by being exposed to airborne asbestos fibers created by persons who
9 used, installed or fabricated asbestos-containing materials.

10 8.

11 Some or all of the Defendants' asbestos-containing products and materials released
12 respirable asbestos fibers capable of causing Mesothelioma if inhaled by individuals, including
13 the Decedent.

14 9.

15 The asbestos or asbestos-containing products of the Defendant suppliers, manufacturers
16 or distributors were unreasonably dangerous and defective in that:

17 (a) The Defendants did not provide sufficient warnings and/or instructions of the harm
18 caused by exposure to the Defendants' asbestos-containing products;

19 (b) The asbestos-containing products of the Defendants were capable of causing
20 Mesothelioma if inhaled by individuals, including the Decedent, in their work
21 places, including those set forth above.

22 (c) Individual workers, including the Decedent, were not warned to utilize proper
23 respiratory protection to protect them from airborne asbestos fibers within their
24 working environment.

10.

2 Defendant 3M's masks were dangerous and defective in that they failed to provide
3 protection from the inhalation of asbestos fibers.

4 11.

5 As a result of the Decedent's exposure to the unreasonably dangerous and defective
6 asbestos-containing products manufactured, distributed, sold, installed, applied or fabricated
7 and/or the failure of the 3M dust masks, Decedent contracted Mesothelioma, from which
8 Decedent has suffered pain, discomfort, fear, and interference with his daily activities and
9 enjoyment of life, and has endured mental and emotional pain and suffering, all of which is
10 permanent, all to the Decedent's non-economic damages in amount of \$950,000.

11 12.

12 As a result of the Decedent's exposure to the unreasonably dangerous and defective
13 asbestos-containing products manufactured, distributed, sold, installed, applied or containing the
14 Defendants' asbestos fiber, the Decedent contracted Mesothelioma, from which he has incurred
15 doctor, hospital and medical expenses and will incur similar medical expenses in the future
16 resulting in economic damages in the amount of \$75,000.

17 **SECOND CLAIM FOR RELIEF**

18 **(Negligence)**

19 13.

20 The Plaintiff re-alleges paragraphs 1 through 11.

21 14.

22 Defendants were negligent generally and in one or more of the following particulars:

23 (a) The Defendants did not provide sufficient warnings and/or instructions of the harm
24 caused by exposure to the Defendants' asbestos-containing products when the
25 Defendants, prior to the period of the Decedent's exposure to asbestos and

1 asbestos-containing products, possessed information concerning the adverse
2 effects and disease-producing capabilities of those products;

3 (b) The Defendants failed to withdraw asbestos-containing products from the market
4 prior to the Decedent's exposure, when the Defendants possessed information
5 concerning the adverse effects and disease-producing capabilities of those
6 products;

7 (c) The Defendants failed to determine the level of airborne asbestos fibers emitted by
8 their products when the products were being used by the end user;

9 (d) The Defendants failed to conduct tests to determine the amount of asbestos to
10 which the Decedent, or similarly situated workers, would be exposed, when
11 engaging in the use of the products; and

12 (e) The Defendants failed to warn individual workers, including the Decedent,
13 regarding the hazards associated with the use of the product.

14 15.

15 Defendant 3M was negligent in selling and marketing dust masks which it claimed
16 provided protection from airborne asbestos fibers but failed to protect the Decedent from
17 respirable asbestos fibers; when they knew or should have known that the mask did not provide
18 adequate respiratory protection to individuals exposed to airborne asbestos fibers.

19 16.

20 As a result of the Defendants' negligence, the Decedent was exposed to airborne asbestos
21 fibers from asbestos-containing products manufactured, distributed, sold, applied or installed by
22 one or more of the Defendants; or containing the fiber mined and distributed by one or more of
23 the Defendants, which caused him to contract Mesothelioma, from which, he has suffered pain
24 discomfort, fear, and interference with his daily activities and enjoyment of life, and has endured
25 mental and emotional pain and suffering, all of which is permanent, all to the Plaintiff's non-
26 economic damages in amount of \$900,000.

Page 8 - COMPLAINT - PERSONAL INJURY

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EX. A - COMPLAINTS - 009

17.

As a result of the Defendants' negligence, the Decedent was exposed to airborne asbestos fibers from asbestos-containing products manufactured, distributed, sold, applied or installed by one or more of the Defendants; or containing the fiber mined and distributed by one or more of the Defendants, which caused him to contract Mesothelioma, from which he has incurred doctor, hospital and lost wages prior to death of \$75,000.

WHEREFORE, Plaintiff prays for judgment as follows:

First Claim for Relief (Strict Liability):

1. Non-economic damages in the amount of \$950,000.
2. Economic damages in the amount of \$75,000.
3. Plaintiff's costs and disbursements incurred herein.
4. Any other costs this court deems equitable.

Second Claim for Relief (Negligence):

1. Non-economic damages in the amount of \$950,000.
2. Economic damages in the amount of \$75,000.
3. Plaintiff's costs and disbursements incurred herein.
4. Any other costs this court deems equitable.

Plaintiff demands a jury trial.

DATED: February 24, 2016.

LAW OFFICE OF JEFFREY S. MUTNICK



Jeffrey S. Mutnick OSB No. 721784
Of Attorneys for Plaintiff
Telephone: 503-595-1033
Email: jmutnick@mutnicklaw.com
Of Attorneys for Plaintiff

Raymond Coury
Exhibit A

Approximate Dates	Location	Manufacturers/ Distributors/ Suppliers	Asbestos Containing Product(s) & Equipment
1961-1980	Northwest Marine & Iron Works Shipyard, Portland, OR	Buffalo Pumps Westinghouse CH Murphy Foster Wheeler Fraser's Boiler General Electric Ingersoll Rand Mardustrial Sales Warren Pumps	Gaskets, packing, friction materials, valves, insulation materials Turbines, generators, insulation materials, gaskets, packing. Insulation materials, refractory materials, friction materials, gaskets, packing, brick Boilers, refractory materials, insulation materials, gaskets, packing, brick Insulation materials, refractory materials, friction materials, gaskets, packing, brick Turbines, generators, insulation materials, gaskets, packing. Gaskets, packing, friction materials, valves, insulation materials Insulation materials, refractory materials, friction materials, gaskets, packing Gaskets, packing, friction materials,

		Goulds Pumps	valves, insulation materials Gaskets, packing, friction materials, valves, insulation materials
1962-1967	Albina Engine & Machine Works Shipyard, Portland, OR	Same as above	Same as above

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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH
6

7 MELISSA COURY, Personal Representative of
the Estate of RAYMOND COURY,

8 Plaintiff,

9 vs.

10 AIR & LIQUID SYSTEMS CORPORATION, a
11 Pennsylvania corporation, sued individually and as
successor by merger to BUFFALO PUMPS, INC.;
CBS CORPORATION f/k/a VIACOM, INC., a
12 Delaware corporation, sued as successor by merger
with CBS Corporation f/k/a Westinghouse Electric
Corporation, successor-in-interest to BF
13 STURTEVANT; CH MURPHY/CLARK-ULLMAN,
14 INC., an Oregon corporation; FOSTER WHEELER,
LLC, a New York corporation; FRASER'S BOILER
15 SERVICE, INC., a Washington corporation,
individually and as successor-in-interest to Fraser
16 Boiler Works; GENERAL ELECTRIC COMPANY,
17 a New York corporation; INGERSOLL-RAND
COMPANY, a New Jersey corporation; MAR-
18 DUSTRIAL SALES, INC. an Oregon corporation;
WARREN PUMPS, LLC, successor in interest to
19 Warren Pumps, Inc., Quimby Pumps Co., and Warren
Steam Pumps Co.; GOULDS PUMPS (IPG), INC.,
a Delaware corporation; METROPOLITAN LIFE
20 INSURANCE COMPANY, a New York corporation;
3M COMPANY (also known as MINNESOTA
21 MINING AND MANUFACTURING COMPANY),
a foreign corporation,
22
23
24

25 Defendants.

Case No. 16CV06135

AMENDED COMPLAINT -
Wrongful Death (Civil Action for
Strict Liability and Negligence)

DEMAND FOR JURY TRIAL

**NOT SUBJECT TO MANDATORY
ARBITRATION**

Prayer Range: \$1,000,000-\$10,000,000
Filing Fee Established By
ORS 21.160(1)(d)

1 Plaintiff alleges at all material times:

2 **FIRST CLAIM FOR RELIEF**

3 **(Strict Liability against Manufacturer, Supplier, and Distributor Defendants)**

4 1.

5 At all times relevant to this action, Defendants conducted regular, sustained and not
6 isolated business activity in the State of Oregon.

7 2.

8 Plaintiff, Melissa Coury, is the duly appointed Personal Representative of the Estate of
9 Raymond Coury ("Decedent"), and a resident of the State of Oregon.

10 3.

11 Decedent's mesothelioma was diagnosed on March 21, 2014. This complaint is filed
12 within the applicable statute of limitations.

13 4.

14 Decedent worked as a laborer, painter, painter supervisor, and supervisor in the Portland
15 Oregon shipyards beginning in 1961. During this employment, Decedent was exposed to
16 airborne asbestos fibers either through handling asbestos and asbestos containing materials in the
17 performance of his work, being exposed to airborne asbestos fibers created by workers who
18 handled, installed or fabricated asbestos containing materials, or who were exposed to those
19 materials and then exposed Decedent to those fibers. Decedent incorporates all product
20 identification set forth in Exhibit "A." Decedent further incorporates any asbestos exposure at
21 any location reflected in Decedent's Social Security records, public documents, union records,
22 testimony of co-workers, testimony of the Decedent and/or any other information in the
23 possession of the Defendants reflecting Decedent's exposure to airborne asbestos fibers for
24 which any Defendant is responsible. Defendants are in the possession of information regarding
25 the asbestos containing products and materials which they fabricated, sold, distributed or whose
26 specifications required asbestos containing materials for replacement or modification.

Page 2 - AMENDED COMPLAINT - WRONGFUL DEATH

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EX. A - COMPLAINTS - 014

1 Defendants have public and private documents, acquired through litigation and other sources,
 2 and have information regarding the materials which they manufactured, sold, distributed, or
 3 fabricated which contained asbestos fibers which could become airborne. Defendants have
 4 access to documents which reflect the nature and extent of Decedent's exposure to products
 5 manufactured, fabricated, or distributed by Defendants. Decedent's exposure to Defendants'
 6 products includes but is not limited to the products present at the locations identified in Exhibit
 7 "A" and includes but is not limited to those products which Defendants, through extensive
 8 discovery and litigation, as well as their own records and documents, are locations where the
 9 Decedent worked and was exposed to Defendants' asbestos fibers. Decedent is continuing
 10 discovery and reserves the right to revise Exhibit "A."

11 5.

12 At all material times:

- 13 a) Air & Liquid Systems Corporation sued individually and as successor by merger to
 14 BUFFALO PUMPS, INC. was and is a Pennsylvania corporation not registered to do
 15 business in the state of Oregon, engaged in the manufacturing, distribution and sale of
 16 asbestos-containing Buffalo Pumps equipment utilizing asbestos-containing products.
 17 This equipment included pumps.
- 18 b) CBS Corporation f/k/a Viacom, Inc., sued as successor by merger with CBS
 19 Corporation f/k/a Westinghouse Electric Corporation, was and is a Delaware
 20 corporation not registered to do business in the state of Oregon, engaged in the
 21 manufacture, sale and/or distribution of equipment utilizing asbestos-containing
 22 products. This equipment included Westinghouse turbines, generators, and pumps.
 23 This Defendant is being sued as a Manufacturer, Supplier, and Distributor defendant.
- 24 c) CH Murphy/Clark-Ullman, Inc. was and is an Oregon corporation registered to do
 25 business in the state of Oregon, engaged in the manufacture, sale and/or distribution
 26 of asbestos-containing products.

- d) General Electric Company was and is a New York corporation registered to do business in the state of Oregon, engaged in the manufacture, sale, and/or distribution of equipment utilizing asbestos-containing products. This equipment included turbines and generators.
- e) Foster Wheeler LLC was and is a New York corporation registered to do business in the state of Oregon engaged in the manufacture, distribution, and/or sale of asbestos-containing products, including, but not limited to, insulation, engines, gaskets, packing, turbines, and related component materials;
- f) Fraser's Boiler Service, Inc., was and is a Washington corporation, individually and as successor-in-interest to Fraser Boiler Works, engaged in the sale and/or distribution of asbestos-containing refractory products used for the service, repair, and/or installation of boilers and/or furnaces;
- g) Ingersoll-Rand Company was and is a New Jersey corporation registered to do business in the state of Oregon, engaged in the manufacture, sale, and/or distribution of equipment utilizing asbestos-containing products. This equipment included pumps and compressors.
- h) Mar-Dustrial Sales, Inc. was and is an Oregon corporation registered to do business in the state of Oregon, engaged in the manufacture, sale, and/or distribution of asbestos-containing products. These products included gaskets.
- i) Warren Pumps, LLC, successor in interest to Warren Pumps, Inc., Quimby Pumps Co., and Warren Steam Pumps Co., is a Massachusetts LLC and was engaged in manufacture, distribution, and sales of asbestos-containing machinery.
- j) Goulds Pumps (IPG), Inc., was and is a Delaware corporation and was engaged in the manufacturing, distribution and sale of asbestos-containing pumps;
- k) Metropolitan Life Insurance Company was a New York corporation engaged in the business of providing a variety of insurance products, including life insurance,

casualty and liability insurance, and workers' compensation insurance to a variety of customers, including corporations engaged in the manufacture, distribution, and sale of asbestos and asbestos-containing products.

6.

(Metropolitan Life Insurance Company)

At all material times, which includes not only the period of plaintiff's work exposure, but also includes a period beginning in approximately 1929 and continuing thereafter, the Metropolitan Life Insurance Company, at the request of, and as part of its business service to, one or more of its insurance customers which engaged in asbestos-related business, conducted, either directly through its own employees or indirectly through commissioned studies and medical research, medical investigations, medical studies, and collection of medical and epidemiological data, concerning the disease producing capabilities of asbestos and asbestos-containing materials. Metropolitan Life provided the results of such investigation and studies, either by direct transmittal to companies engaged in asbestos related business or indirectly by dissemination of the information and medical knowledge that they had accumulated throughout asbestos-related industries. This transmittal and dissemination of information went to a variety of industrial companies and individuals, including the Defendants named herein. Medical investigation studies and information developed from the activities of Metropolitan Life Insurance Company, above described, included substantial evidence of the disease producing capability of asbestos and asbestos-related products. After collection and dissemination of the medical information and data, as described above, which collection and dissemination occurred in the 1930s and 1940s, the Metropolitan Life Insurance Company thereafter engaged in a continuous and consistent course of conduct suppressing, minimizing, understating and denying the evidence of disease causing properties of asbestos and asbestos-related material.

25 | // / /

26 | // / /

Page 5 - AMENDED COMPLAINT – WRONGFUL DEATH

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EX. A - COMPLAINTS - 017

1 7.

2 Decedent, Raymond Coury, was exposed to airborne asbestos fibers beginning in 1961 by
3 directly working with asbestos-containing materials and by working in the vicinity of other
4 workers utilizing these products. At all material times, Decedent was exposed to airborne
5 asbestos fibers either through utilizing asbestos and asbestos-containing materials in the
6 performance of his work, or by being exposed to airborne asbestos fibers created by persons who
7 used, installed or fabricated asbestos-containing materials.

8 8.

9 Some or all of the Defendants' asbestos-containing products and materials released
10 respirable asbestos fibers capable of causing mesothelioma if inhaled by individuals, including
11 the Decedent.

12 9.

13 The asbestos or asbestos-containing products of the Defendant suppliers, manufacturers
14 or distributors were unreasonably dangerous and defective in that:

15 (a) The Defendants did not provide sufficient warnings and/or instructions of the harm
16 caused by exposure to the Defendants' asbestos-containing products;
17 (b) The asbestos-containing products of the Defendants were capable of causing
18 mesothelioma if inhaled by individuals, including the Decedent, in their work
19 places, including those set forth above.
20 (c) Individual workers, including the Decedent, were not warned to utilize proper
21 respiratory protection to protect them from airborne asbestos fibers within their
22 working environment.

23 10.

24 Defendant 3M's masks were dangerous and defective in that they failed to provide
25 protection from the inhalation of asbestos fibers.

26 ////

11.

2 As a result of the Decedent's exposure to the unreasonably dangerous and defective
3 asbestos-containing products manufactured, distributed, sold, installed, applied or fabricated,
4 and/or the failure of the 3M dust masks, and/or the activities of Metropolitan Life, Decedent
5 contracted mesothelioma, which caused his death. Decedent's Estate suffered non-economic
6 damages for loss of society and companionship, grief, anguish, and for the conscious pain and
7 suffering sustained by the Decedent prior to his death, to decedent's estate's non-economic
8 damage in the amount of \$950,000.

9 12.

10 As a result of the Decedent's exposure to the unreasonably dangerous and defective
11 asbestos-containing products manufactured, distributed, sold, installed, applied or containing the
12 Defendants' asbestos fiber, and/or the activities of Metropolitan Life, the Decedent contracted
13 mesothelioma, from which he died. Decedent's Estate has suffered economic damages for medical
14 bills, funeral and burial expenses, and loss of earning capacity in the amount of \$175,000.

15 13.

16 Prior to his death, the Decedent's mesothelioma caused him pain and suffering and loss
17 of income which pursuant to ORS 30.020(2)(b) entitles the Decedent's estate to additional
18 damages included above.

19 **SECOND CLAIM FOR RELIEF**

20 **(Negligence)**

21 14.

22 The Plaintiff re-alleges paragraphs 1 through 13.

23 15.

24 Defendants were negligent generally and in one or more of the following particulars:

25 (a) The Defendants did not provide sufficient warnings and/or instructions of the harm
26 caused by exposure to the Defendants' asbestos-containing products when the

1 Defendants, prior to the period of the Decedent's exposure to asbestos and
2 asbestos-containing products, possessed information concerning the adverse
3 effects and disease-producing capabilities of those products;

4 (b) The Defendants failed to withdraw asbestos-containing products from the market
5 prior to the Decedent's exposure, when the Defendants possessed information
6 concerning the adverse effects and disease-producing capabilities of those
7 products;

8 (c) The Defendants failed to determine the level of airborne asbestos fibers emitted by
9 their products when the products were being used by the end user;

10 (d) The Defendants failed to conduct tests to determine the amount of asbestos to
11 which the Decedent, or similarly situated workers, would be exposed, when
12 engaging in the use of the products; and

13 (e) The Defendants failed to warn individual workers, including the Decedent,
14 regarding the hazards associated with the use of the product.

15 16.

16 Defendant 3M was negligent in selling and marketing dust masks which it claimed
17 provided protection from airborne asbestos fibers but failed to protect the Decedent from
18 respirable asbestos fibers; when they knew or should have known that the mask did not provide
19 adequate respiratory protection to individuals exposed to airborne asbestos fibers.

20 17.

21 As a result of the Defendants' negligence, and/or the activities of Metropolitan Life, the
22 Decedent was exposed to airborne asbestos fibers from asbestos-containing products
23 manufactured, distributed, sold, applied or installed by one or more of the Defendants; or
24 containing the fiber mined and distributed by one or more of the Defendants, which caused him
25 to contract mesothelioma, which caused his death. Decedent's Estate suffered non-economic
26 damages for loss of society and companionship, grief, anguish, and for the conscious pain and

1 suffering sustained by the Decedent prior to his death, to decedent's estate's non-economic
2 damage in the amount of \$950,000.

3 18.

4 As a result of the Defendants' negligence, and/or the activities of Metropolitan Life, the
5 Decedent was exposed to airborne asbestos fibers from asbestos-containing products
6 manufactured, distributed, sold, applied or installed by one or more of the Defendants; or
7 containing the fiber mined and distributed by one or more of the Defendants, which caused him
8 to contract mesothelioma, from which he died. Decedent's Estate has suffered economic
9 damages for medical bills, funeral and burial expenses and loss of earning capacity in the amount
10 of \$175,000.

11 19.

12 Prior to his death, the Decedent's mesothelioma caused him pain and suffering and loss
13 of income which pursuant to ORS 30.020(2)(b) entitles the Decedent's estate to additional
14 damages included above.

15 **WHEREFORE**, Plaintiff prays for judgment as follows:

16 **First Claim for Relief (Strict Liability):**

- 17 1. Non-economic damages in the amount of \$950,000.
- 18 2. Economic damages in the amount of \$175,000.
- 19 3. Plaintiff's costs and disbursements incurred herein.
- 20 4. Any other costs this court deems equitable.

21 **Second Claim for Relief (Negligence):**

- 22 1. Non-economic damages in the amount of \$950,000.
- 23 2. Economic damages in the amount of \$175,000.

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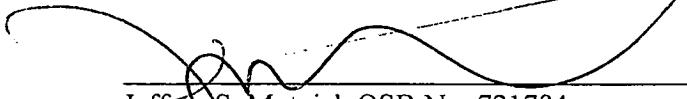
1 3. Plaintiff's costs and disbursements incurred herein.

2 4. Any other costs this court deems equitable.

3 Plaintiff demands a jury trial.

4 DATED: April 8, 2016.

5 LAW OFFICE OF JEFFREY S. MUTNICK

6 
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Exhibit A

Approximate Dates	Location	Manufacturers/ Distributors/ Suppliers	Asbestos Containing Product(s) & Equipment
1961-1980	Northwest Marine & Iron Works Shipyard, Portland, OR	Buffalo Pumps Westinghouse CH Murphy Foster Wheeler Fraser's Boiler General Electric Ingersoll Rand	Gaskets, packing, friction materials, valves, insulation materials Turbines, generators, insulation materials, gaskets, packing. Insulation materials, refractory materials, friction materials, gaskets, packing, brick Boilers, refractory materials, insulation materials, gaskets, packing, brick Insulation materials, refractory materials, friction materials, gaskets, packing, brick Turbines, generators, insulation materials, gaskets, packing. Gaskets, packing, friction materials, valves, insulation materials

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		Mardustrial Sales	Insulation materials, refractory materials, friction materials, gaskets, packing
		Warren Pumps	Gaskets, packing, friction materials, valves, insulation materials
		Goulds Pumps	Gaskets, packing, friction materials, valves, insulation materials
1962-1967	Albina Engine & Machine Works Shipyard, Portland, OR	Same as above	Same as above

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